



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 00-1133)

Inter Partes Application of:

Fijolek et al.

Serial No.: 09/722,980

Filed: November 27, 2000

For: System and Method for Automatic Load
Balancing in a Data-Over-Cable Network

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Group Art Unit: 2666

Examiner: Frank Duong

**PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF
ABANDONMENT**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is submitted in response to the Notice of Abandonment mailed on October 7, 2005 in the above-referenced application. The Notice states that no reply was received to the Notice of Drawing Inconsistency with Specification that was mailed on June 6, 2005. Applicants' respectfully request that the holding of abandonment be withdrawn because a response was in fact timely filed on July 6, 2005.

In the Notice of Drawing Inconsistency with Specification mailed on June 6, 2005, Applicants were given the longer of one month or thirty days to respond. Applicants did in fact timely respond to this Notice on July 6, 2005. However, the transmittal letter included with Applicant's response, due to clerical error, had two digits of the application serial number transposed. Specifically, the serial number on the transmittal letter was listed at 10/722,890

rather than the correct serial number 10/722,980. The application serial number listed on the "Response to Notice of Drawing Inconsistency with Specification and Submission of Substitute Drawing Sheet" and the Return Receipt Postcard included with Applicants' July 6, 2005 filing were correct.

As evidence of this timely filing, Applicants have attached herewith copies of (i) the original stamped Return Receipt Postcard demonstrating receipt of Applicant's response by the Patent Office on July 8, 2005 (mailed on July 6, 2005); (ii) the original transmittal letter with certificate of mailing, with the error in the serial number noted; (iii) the original Response to Notice of Drawing Inconsistency with Specification and Submission of Substitute Drawing Sheet and (iv) the substitute drawing sheet.

Because Applicants did in fact file a timely response to the Notice of Drawing Inconsistency with Specification, it is respectfully requested that the holding of abandonment be withdrawn and the application be sent for publication as an issued patent.

While it is believed that there is no fee associated with this petition, if the Office determines that a fee is due, please charge any such fee, or credit any overpayments, to deposit account 13-2490.

If the Office has any questions regarding this submission, the undersigned may be contacted by phone at 360.379.6514.

Respectfully Submitted,

McDonnell Boehnen Hulbert & Berghoff LLP

Date: Oct. 20, 2005

By: 

Paul W. Churilla
Reg. No. 47,495



CERTIFICATE OF EXPRESS MAILING UNDER 37 C.F.R. § 1.10

The undersigned hereby certifies that the foregoing "Petition Under 37 C.F.R. 1.181 to Withdraw Holding of Abandonment" is being deposited with the United States Postal Service with sufficient postage as Express Mail - Post Office to Addressee, Mailing Number ED 982567143 US in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 20th day of October 2005.



Paul W. Churilla